

HONORABLE BENJAMIN H. SETTLE

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

HP TUNERS, LLC, a Nevada limited liability  
company, ) CASE NO. 3:17-cv-05760-BHS  
)  
Plaintiff, ) DECLARATION OF KEITH PROCIUK  
) IN SUPPORT OF PLAINTIFF'S  
vs. ) RENEWED EMERGENCY MOTION  
) FOR TEMPORARY RESTRAINING  
KEVIN SYKES-BONNETT and SYKED) ORDER AND PRELIMINARY  
ECU TUNING INCORPORATED,) INJUNCTION  
Washington corporation, and JOHN) AGAINST DEFENDANTS  
MARTINSON, )  
  
Defendants.

I, KEITH PROCIUK, pursuant to 28 U.S.C. § 1746, being duly sworn according to law,  
hereby state and declare as follows:

1. My name is Keith Prociuk. I am an individual over the age of 18 years. I have  
personal knowledge of the matters set forth in my declaration and would be willing and able to  
testify thereto if and when called upon to do so.

2. I am an owner of HP TUNERS, LLC.

3. Prior to October 20, 2016, HPT was owned by Keith Prociuk, Chris Piastri and  
Ken Cannata.

1           4.       On October 20, 2016, HPT purchased Mr. Cannata's interest in the company. In  
2 connection with that agreement, Mr. Cannata agreed to various restrictive covenants, he agreed  
3 to return all of HPT's proprietary and confidential information (including but not limited to all  
4 MPVI firmware and source code) and he agreed to destroy all confidential and proprietary  
5 information of HPT.

6           5.       On August 5, 2018, an anonymous informant provided HPT with detailed  
7 information and images from TeamViewer sessions with Defendant Kevin Sykes-Bonnett. The  
8 information shows that Mr. Cannata was involved with Defendants as of at least January 2017  
9 (less than 3 months after the purchase of his interest) and that Defendant Kevin Sykes-Bonnett  
10 wrongfully possesses highly confidential and proprietary information of HPT.  
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12           6.       While Mr. Cannata was an owner of HPT and in connection with the purchase of  
13 his interest, he agreed to maintain the confidentiality of and not disclose HPT's confidential and  
14 proprietary information in any manner.

15           7.       For example, the screenshot of Defendants' computer known as "Kevin-PC"  
16 attached as Exhibit 1-A depict a number of HPT source code files, descriptive documents and  
17 folders including:  
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- a. "Firmware" – Folder
  - b. "Firmware Hack" - Folder
  - c. "CAN0RX\_ISR.ASM" - Firmware source code file from HPT MPVI that only Mr. Cannata, Mr. Piastri and I had access to
  - d. "CAN0TXPROCESS.ASM" - Firmware source code file from HPT MPVI that only Mr. Cannata, Mr. Piastri and I had access to
  - e. "P32\_ALGO.ASM" - Firmware source code file from HPT MPVI that only Mr. Cannata, Mr. Piastri and I had access to
  - f. "FirmwareHack.rar" - Archive file
  - g. "Interface Reprogramming.doc" - HPT document describing MPVI firmware reprogramming commands and method
  - h. "MPVI Protocol.doc"- HPT document describing MPVI protocol commands used to command and control the MPVI from PC
8. Similarly, the screenshot of Defendants' computer known as "Kevin-PC" which is attached as Exhibit 1-B depict a number of HPT folders and files from HPT VCM Suite source code including:
- a. "License" - HPT source code folder containing core VCM Suite licensing code)
  - b. "LicTransfer" - Folder containing HPT utility program source code used to transfer licenses from one MPVI to another, used for interface replacements
  - c. "Shared" – Folder containing VCM Suite source code
  - d. "cCable.cs" - HPT VCM Suite source code file
  - e. "cController.cs" - HPT VCM Suite source code file
  - f. "cMPVI.cs" - HPT VCM Suite source code file

- g. “cUtil.cs” - HPT VCM Suite source code file
- h. “cVehicle.cs” - HPT VCM Suite source code file
- i. “License Writer.exe” - HPT utility program used to transfer licenses from one MPVI to another
- j. “Lictransfer.exe” - HPT utility program used to transfer licenses from one MPVI to another – older version

9. Furthermore, the screenshots of Defendants’ computer known as “Kevin-PC” which is attached as Group Exhibit 1-C depict a HPT windows based Key Generator program which acts as a shell to a HPT keygen.exe command line program.

10. The keygen.exe is confidential and proprietary information HPT.

11. On September 25, 2017, on a telephone conference with me and others, Kevin Sykes-Bonnett specifically advised me that Defendants are developing competing products and software to HPT and that Defendants are releasing the competitive products and software to the public at the SEMA Show in Las Vegas beginning on October 31, 2017.

12. Defendants posted a YouTube video at <https://youtu.be/nGK4o0lxYq0?t=100> which contained a licensing screen. A screenshot of the licensing screen shows Defendants have copied HPT virtually word for word. (See Exhibit 1-D attached hereto).

13. Likewise, Exhibit N to the Amended Complaint shows a listing of exact HPT parameter names (character per character, including abbreviations) showcased in Defendants’ own software. Attached as Exhibit 1-E hereto are enlarged screenshots. Every single parameter in the list to the left is copied from HPT software.

14. Attached as Exhibit 1-F hereto is also a sample of a few of these parameters shown in HPT software. The shown sample includes “Max Torque Timing Mult”, “Max Torque

1 Timing EGR adder”, and “Max Torque Timing Alcohol Adder” – which are seen in Defendants’  
2 software.

3 15. This is also consistent with Defendants’ receipt of the parameters list names from  
4 Mr. Cannata as I came up with these names myself over a decade ago and there is no other way  
5 that Defendants would have them.

6 16. Attached as Exhibit 1-H is the Declaration of Matt Kaiser.

7 17. Defendant Kevin Sykes-Bonnett has also posted images on FaceBook showing his  
8 wrongful possession of confidential and proprietary information of HPT.  
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10 18. For example, Defendant Sykes-Bonnett posted an image showing his possession  
11 of a PCM Harness for the E38 Controller, which PCM Harness was designed by me, is  
12 proprietary to HPT, is manufactured exclusively for HPT by Speartech, and which is not publicly  
13 available. Mr. Cannata would have been in possession of the PCM Harness and only Mr.  
14 Cannata could have provided the PCM Harness to Defendants. (See Exhibit 1-I attached hereto).

15 19. Similarly, Defendant Sykes-Bonnett posted an image showing his possession of  
16 PCM Tools Software, which is confidential and proprietary software of HPT, and which was not  
17 possessed by anyone other than Mr. Piastri, Mr. Cannata and me. (See Exhibit 1-J attached  
18 hereto). Mr. Cannata would have been in possession of the PCM Tools Software and only Mr.  
19 Cannata could have provided the PCM Tools Software to Defendants.  
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21 20. Exhibit 1-K attached hereto is a FaceBook post by Syked which is marketing the  
22 competing Eliminator Cable product and discounted tuning credits available for purchase to  
23 compete with HPT.

24 21. Upon information and belief, Syked’s recently released Eliminator Cable is the  
25 same or substantially similar to HPT’s MPVI and contains the same communication protocol.

1 Documents and information received from the anonymous informant demonstrate that  
2 Defendants have duplicated HPT's MPVI communication protocol in connection with the  
3 recently released Syked Eliminator Cable, and that the Syked Eliminator Cable incorporates  
4 confidential and proprietary information of HPT's MPVI.

5 22. Attached as Exhibit 1-L is an unsigned copy of a "Shares Purchase Agreement"  
6 between Syked ECU Tuning, Inc. and Bobbie Cannata. The anonymous informant provided  
7 HPT with this document evidencing Mr. Cannata's direct or indirect ownership interest in Syked  
8 ECU Tuning, Inc. through Bobbie Cannata. The "Shares Purchase Agreement" is substantially  
9 similar to a form of the same document used by Ken Cannata and HPT during Ken Cannata's  
10 tenure with HPT. In addition, the anonymous informant provided email communications  
11 between Ken Cannata and Syked ECU Tuning, Inc. relating to the Bylaws of Syked ECU  
12 Tuning.  
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14 23. Kevin Sykes-Bonnett has made various threats to "open source" (publicly release)  
15 source code. (See Group Exhibit 1-G). Defendants' threats in this regard should be taken  
16 seriously. On May 23, 2018, Defendant Kevin Sykes-Bonnett publicly released proprietary  
17 algorithms of General Motors in a FaceBook post. (See Exhibit 1-M attached hereto).  
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19 24. Moreover, Defendants are actively marketing products for sale (e.g. Syked's  
20 software, the Syked's Eliminator Cable, tuning credits, etc.) which unfairly compete with HPT's  
21 products and offerings, and which are based on, derived from and/or incorporate confidential and  
22 proprietary information of HPT.

23 25. Because of the threat to HPT's business that competing products incorporating  
24 our source code have been released and are being sold, our entire business is at stake.  
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28. HPT will suffer irreparable harm if Defendants are not enjoined from “open sourcing” (publicly releasing) source code and/or any other confidential and proprietary information of HPT.

I hereby declare, under penalty of perjury, that all of the foregoing is true and accurate to the best of my knowledge and belief.

  
KEITH PROCIUK